IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 605 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MADHUSUDAN BHAVANBHAI CHANDRANA

Versus

STATE OF GUJARAT

Appearance:

MS KRISHNA U MISHRA for the Petitioner.

Mr.A.Y. Kogje, Additional PUBLIC PROSECUTOR, for the Respondents.

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 06/08/2004

ORAL JUDGEMENT

Rule returnable today. Mr.A.Y. Kogje, learned APP, waives service of rule on behalf of the respondents.

With the consent of the parties, the matter is

taken up for disposal today.

By filing this application, the prisoner has prayed that he may be released on parole for 90 days, as he wants to undergo medical treatment in connection with the ailment which he is suffering.

In response to the petition, Mr.Kogje, learned AGP, submitted that the jail authority had taken the prisoner to the U.N. Mehta Hospital, Ahmedabad, and even for the cost of treatment, Rs.1,50,000/- was sanctioned by the Government. However, the concerned Doctor of the hospital, after taking initial steps for performing Angioplasty on the convict, ultimately, decided that it is not possible to carry out the said treatment on medical grounds.

The learned Advocate for the applicant, however, submitted that the petitioner would like to undergo the said treatment in a private hospital at his own cost. Since the convict was already taken for the said heart treatment, which is not in dispute, though, of course, that treatment could not be given on medical grounds, and Mr.Kogje, learned APP, after taking instructions from the Doctor of the Jail, has also submitted that the ailment referred in the application in connection with the heart problem is correct, in my view, this is a fit case in which the Government should reconsider its decision regarding granting parole to the petitioner.

The matter is accordingly sent back to the District Magistrate, Rajkot, for the purpose of passing appropriate order in connection with grating parole to the petitioner in accordance with law and if the authority is of the opinion that the parole can be granted, the said parole may be granted for 30 days, as Mr.Kogje, learned APP, submitted that, at the most, within 30 days, the patient can resume normal work, even if treatment of Angioplasty is undertaken. The District Magistrate, Rajkot, may accordingly pass appropriate orders within a period of two weeks from today and in case it is decided to release the prisoner on parole, such order may be passed in accordance with law and as per the Parole-Furlough Rules.

It is clarified that the learned Advocate for the petitioner has submitted before this Court that whatever expenditure to be incurred for such treatment will be borne by the convict and he will not ask for reimbursement of any amount for such treatment. The said statement of the learned Advocate for the petitioner is

recorded.

Rule is made absolute to the aforesaid extent.

Writ of this order may be sent to the District Magistrate, Rajkot forthwith for taking appropriate decision.

Mr.Kogje, learned APP, may also communicate this order to respondent No.2, Jail Superintendent, for taking appropriate action.

The Office is directed to make available a copy of this order to Mr.Kogje, learned APP, forthwith.

6th August, 2004 (P.B. Majmudar, J.)

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(apj)